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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,219	12/16/2004	David J. Alessio	SP-1598.2 US	5728
20875	7590	10/12/2006		
MICHAEL C. POPHAL EVEREADY BATTERY COMPANY INC 25225 DETROIT ROAD P O BOX 450777 WESTLAKE, OH 44145			EXAMINER LEE, GUNYOUNG T	
			ART UNIT 2875	PAPER NUMBER

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/518,219

Applicant(s)

ALESSIO, DAVID J.

Examiner

Gunyoung T. Lee

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/12/2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Affidavit or Declaration

1. The declaration filed on 09/12/2006 under 37 CFR 1.131 is sufficient to overcome the Brass et al. (US 6,979,104) reference.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7 and 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Furst et al. (US 6,152,590).

4. In regard to claims 1, 3, 5, 10 and 13, Furst et al. disclose a lighting device having:

- A housing (4);
- First and second light emitting diodes (9) located in the housing (4), wherein the second light emitting diode is spaced from the first light emitting diode;
- First and second magnifier lenses (18) comprising a convex surface and arranged in light paths (19) of the first and second light emitting diodes (9)

Art Unit: 2875

respectively for focusing (col. 10, lines 58-60) first and second light beams (19) onto a target area (A);

- Wherein the second magnifier lens (Fig. 1) is spaced from the first magnifier lens;
- A cover/support member (7) disposed a front of the housing (4), wherein the cover/support member supports the first and second magnifier lenses (18) relative to the first and second light emitting diodes (9) respectively.

5. In regard to claims 2, 4, 6-7, 9, 11-12 and 14-15, Furst et al. further disclose:

- Wherein the cover/support member (7) comprises (col. 10, line 20) a substantially transparent material with a non-reflective inner wall;
- Wherein the first and second magnifier lenses (Fig. 1, 18) each comprise a plano convex magnifier lens;
- Wherein the first and second magnifier lenses (18) are arranged substantially orthogonal to the light path (19) of the corresponding first and second light emitting diodes (9);
- A circuit board (8) fixed to the housing (4), wherein the first and second emitting diodes (9) are connected to the circuit board (8).

6. Claims 1 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Sommers et al. (US 6,485,160).

7. In regard to claims 1 and 8, Sommers et al. disclose a flashlight having:

- A housing (12);

Art Unit: 2875

- First (26a) and second (26b) light emitting diodes located in the housing (12), wherein the second light emitting diode (26b) is spaced from the first light emitting diode (26a);
- First (34a) and second (34b) magnifier lenses arranged in light paths of the first and second light emitting diodes (26a,b) respectively for focusing (col. 3, lines 10-13) first and second light beams onto a target area (36);
- A support member (Fig. 1) for supporting the first (34a) and second (34b) magnifier lenses relative to the first (26a) and second (26b) light emitting diodes respectively.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Claire (US 6,168,288) in view of Alston (US 5,174,649).

10. In regard to claims 10 and 16, Claire discloses a light emitting diode (LED) flashlight having:

- A housing (12);
- First and second light emitting diodes (48) located in the housing (12), wherein the second light emitting diode is spaced from the first light emitting diode;

- A cover (60) arranged in a light path of the first and second light emitting diodes (48) and disposed a front of the housing (12) relative to the first and second light emitting diodes (48).

11. However, Claire does not expressly disclose that the cover comprises first and second magnifier lenses having convex surfaces and focusing light beams from the LEDs onto a target area. Alston discloses a LED lamp comprising a cover (106) having first and second magnifier lenses (110A-D) with convex surfaces (col. 3, lines 42-44) and focusing (col. 3, lines 44-46) light beams from first (101) and second (102) light emitting diodes onto a target area (Fig. 1A). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the cover with plural lenses as shown in Alston for the flashlight of Claire, for the purpose of providing a desired beam spread pattern by precisely tailoring beams from the LEDs.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Murata (US 4,935,665), Sjobom (US 5,896,093), Roller (US 6,414,801) and Reiff et al. (US 6,857,756) shows lighting devices having a plurality of light emitting diodes and corresponding lenses.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gunyoung T. Lee whose telephone number is (571) 272-8588. The examiner can normally be reached between 7:30 - 4:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached at (571) 272-2378. The fax phone

Art Unit: 2875

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GTL
10/2/2006



RENEE LUEBKE
PRIMARY EXAMINER